

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**SECOND AMENDMENT ARMS,
R. JOSEPH FRANZESE, individually
and d/b/a SECOND AMENDMENT
ARMS, and TONY KOLE,**

Plaintiffs,

v.

**CITY OF CHICAGO,
LORI LIGHTFOOT,
EDDIE JOHNSON,
and ANNA VALENCIA,**

Defendants.

Case No. 10 C 4257

Judge Robert M. Dow, Jr.

**DEFENDANTS' MOTION FOR LEAVE (1) TO FILE A BRIEF IN EXCESS OF
FIFTEEN PAGES AND (2) TO FILE DOCUMENTS UNDER SEAL**

Defendants City of Chicago (the "City"), Mayor Lori Lightfoot, Superintendent of Police Eddie Johnson, and City Clerk Anna Valencia (collectively, "Defendants"), by their attorney, Mark A. Flessner, Corporation Counsel for the City of Chicago, respectfully move this Court for leave to file a memorandum in excess of fifteen pages in support of their Motion (1) for Summary Judgment and (2) to Exclude the Testimony of Robert Southwick and to file certain documents under seal. A redacted version of the memorandum Defendants seek to file is attached hereto as Exhibit A. In support of this motion, Defendants state as follows:

1. In a single filing, Defendants have moved for summary judgment pursuant to Federal Rule of Civil Procedure 56 and to exclude the testimony of Plaintiffs' expert witness pursuant to Federal Rule of Evidence 702 and *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993).

2. Under Local Rule 7.1, Defendants' brief in support of their motion cannot exceed

15 pages in length without the approval of this Court.

3. Defendants' motion for summary judgment address two distinct claims: (1) a claim for lost profits damages allegedly resulting from the City's prior ban on gun stores and (2) a Second Amendment challenge to the City's current restriction on laser sight accessories. Defendants respectfully submit that, in order to address both claims adequately while also setting forth the reasons why Plaintiffs' expert should be excluded, Defendants require a total of 33 pages. Defendants note that had they filed two separate motions, they would be permitted to submit briefs totaling 30 pages, and thus Defendants only seek an additional three pages.

4. Defendants have attempted to keep their arguments as concise as possible so as to minimize the amount of additional space required.

5. Defendants also respectfully request that the Court grant leave to file the following documents under seal pursuant to Local Rule 26.2: their Rule 56.1 Statement of Undisputed Material Facts ("SUMF"); Exhibits A, F, G, H, I, J, and K to the SUMF; Defendants' Memorandum in support of their motion; and Exhibits 1 and 2 to that memorandum. On October 12, 2016, this Court entered an agreed confidentiality order in this action, Dkt. 202-1, which was updated on May 2, 2019, Dkt. 249. Pursuant to that order, the parties may designate certain categories of documents as confidential by including the appropriate designation. The documents cited above in this paragraph have either been designated as confidential by Plaintiffs or reference the contents of a document designated as confidential by Plaintiff. Accordingly, Defendants seek leave to file the documents under seal so as to comply with the agreed confidentiality order.

6. Local Rule 26.2(c) states that any party wishing to file a document or portion of a document electronically under seal must: "(1) provisionally file the document electronically

under seal; (2) file electronically at the same time a public-record version of the brief, motion or other submission with only the sealed document excluded; and (3) move the court for leave to file the document under seal.” Defendants are complying with Local Rule 26.2 by filing the documents listed in paragraph 5 under seal and filing a public-record version of their Motion (1) for Summary Judgment and (2) To Exclude the Testimony of Robert Southwick and all non-confidential exhibits, and filing redacted versions of their SUMF in support of their motion.

WHEREFORE, for the foregoing reasons, Defendants respectfully request that the Court grant them leave to file a 33-page brief in support of their Motion (1) for Summary Judgment and (2) To Exclude the Testimony of Robert Southwick in the form attached hereto as Exhibit A, grant them leave to file the documents listed in paragraph 5 above under seal, and grant such further relief as the Court deems just and appropriate.

Date: July 12, 2019

Respectfully submitted,

MARK A. FLESSNER
Corporation Counsel of the City of Chicago

By: /s/ Justin Tresnowski
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